

## Fiscal Estimate - 2009 Session

☒ Original      ☐ Updated      ☐ Corrected      ☐ Supplemental

<b>LRB Number</b> <b>09-4393/1</b>		<b>Introduction Number</b> <b>AB-0769</b>	
<b>Description</b> Evidentiary recordings of persons under the age of 18 engaging in sexually explicit conduct and attempt of certain sex crimes against children and providing penalties			
<b>Fiscal Effect</b>			
<b>State:</b>			
<input checked="" type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <div style="display: flex; justify-content: space-around;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</div>	
		<input type="checkbox"/> Decrease Costs	
<b>Local:</b>			
<input checked="" type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<div style="display: flex; justify-content: space-between;"><input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory</div>		<div style="display: flex; justify-content: space-between;"><input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory</div>	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<div style="display: flex; justify-content: space-between;"><input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory</div>		<div style="display: flex; justify-content: space-between;"><input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory</div>	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village <input type="checkbox"/> Cities	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b>		<b>Affected Ch. 20 Appropriations</b>	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
<b>Agency/Prepared By</b>		<b>Authorized Signature</b>	<b>Date</b>
DA/ Phil Werner (608) 267-2700		Harald Jordahl (608) 261-7520	2/26/2010

## **Fiscal Estimate Narratives**

**DA 2/26/2010**

LRB Number	<b>09-4393/1</b>	Introduction Number	<b>AB-0769</b>	Estimate Type	<b>Original</b>
<b>Description</b> Evidentiary recordings of persons under the age of 18 engaging in sexually explicit conduct and attempt of certain sex crimes against children and providing penalties					

### **Assumptions Used in Arriving at Fiscal Estimate**

Should this bill be enacted, prosecutors believe that there will be no fiscal impact on their offices.

### **Long-Range Fiscal Implications**

Prosecutors do not anticipate a long-term fiscal impact if this bill is enacted.

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<b>Fiscal Effect</b>		
<b>State:</b> <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate     <input type="checkbox"/> Increase Existing Appropriations     <input type="checkbox"/> Decrease Existing Appropriations     <input type="checkbox"/> Create New Appropriations</div><div style="width: 33%;"><input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues</div><div style="width: 33%;"><input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget     <input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs</div></div>		
<b>Local:</b> <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate     1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue       <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory     2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue       <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</div><div style="width: 33%;"><b>5. Types of Local Government Units Affected</b> <div style="display: flex; flex-wrap: wrap;"><div style="width: 33%;"><input type="checkbox"/> Towns      <input type="checkbox"/> Counties      <input type="checkbox"/> School Districts</div><div style="width: 33%;"><input type="checkbox"/> Village      <input type="checkbox"/> Others      <input type="checkbox"/> WTCS Districts</div><div style="width: 33%;"><input type="checkbox"/> Cities</div></div></div></div>		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> GPR    <input type="checkbox"/> FED    <input type="checkbox"/> PRO    <input type="checkbox"/> PRS    <input type="checkbox"/> SEG    <input type="checkbox"/> SEGS</div><div></div></div>		
<b>Agency/Prepared By</b> DOC/ Dawn Woeshnick (608) 240-5417	<b>Authorized Signature</b> Robert Margolies (608) 240-5056	<b>Date</b> 3/2/2010

**Fiscal Estimate Narratives**  
**DOC 3/2/2010**

LRB Number	09-4393/1	Introduction Number	AB-0769	Estimate Type	Original
<b>Description</b> Evidentiary recordings of persons under the age of 18 engaging in sexually explicit conduct and attempt of certain sex crimes against children and providing penalties					

**Assumptions Used in Arriving at Fiscal Estimate**

Under current law, a person is guilty of a Class F or H felony if they cause a child under the age of 18 to view or listen to sexually explicit conduct for sexual arousal or gratification of the person or for humiliation or degradation of the child. In addition, a person is guilty of a Class C felony if they communicate via a computer with an individual, whom they believe is under 16 years of old, to facilitate a sexual crime. This bill would make the attempt to do either of these crimes a felony punishable at the same level as the completed crime. A class C felony would be punishable by a maximum sentence length of 40 years with a maximum confinement time of 25 years, a class F felony would be punishable by a maximum sentence length of 12.5 years with a maximum confinement time of 7.5 years, and a Class H felony would be punishable by a maximum sentence length of 6 years with a maximum confinement time of 3 years.

The Department of Corrections is unable to estimate the number of offenders who will be subject to the new criminal penalty provisions of this bill, and therefore is unable to estimate the state fiscal impact. However, if additional offenders are convicted, the Department will see increased costs.

In FY09 the annual cost of an inmate in a DOC institution was approximately \$31,800. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food health care, and clothing) of housing a small number of inmates was approximately \$4,900 in FY09. When there is no excess capacity in DOC facilities, as is currently the case, the Department uses contract beds at a rate of \$18,800 annually per person. The annual cost for community supervision was \$2,600 in FY09.

**Long-Range Fiscal Implications**

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<b>Fiscal Effect</b>  <b>State:</b> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> No State Fiscal Effect  <input type="checkbox"/> Indeterminate  <div style="margin-left: 20px;"> <input type="checkbox"/> Increase Existing Appropriations  <input type="checkbox"/> Decrease Existing Appropriations  <input type="checkbox"/> Create New Appropriations                             </div> </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                                <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget  <div style="margin-left: 40px;"> <input type="checkbox"/> Yes      <input type="checkbox"/> No                             </div> <input type="checkbox"/> Decrease Costs                         </div> </div> <b>Local:</b> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No Local Government Costs  <input checked="" type="checkbox"/> Indeterminate  <div style="margin-left: 20px;">                         1. <input type="checkbox"/> Increase Costs  <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory                             </div>                         2. <input type="checkbox"/> Decrease Costs  <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory                             </div> </div> </div> <div style="width: 33%;"> <div style="margin-left: 20px;">                         3. <input type="checkbox"/> Increase Revenue  <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory                             </div>                         4. <input type="checkbox"/> Decrease Revenue  <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive   <input type="checkbox"/> Mandatory                             </div> </div> </div> <div style="width: 33%;"> <b>5. Types of Local Government Units Affected</b>  <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns  <input type="checkbox"/> Counties  <input type="checkbox"/> School Districts                             </div> <div style="width: 33%;"> <input type="checkbox"/> Village  <input type="checkbox"/> Others  <input type="checkbox"/> WTCS Districts                             </div> <div style="width: 33%;"> <input type="checkbox"/> Cities                             </div> </div> </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div> <b>Fund Sources Affected</b>  <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEGS                         </div> <div> <b>Affected Ch. 20 Appropriations</b> </div> </div>		
<b>Agency/Prepared By</b>  DOJ/ Mark Rinehart (608) 264-9463	<b>Authorized Signature</b>  Mark Rinehart (608) 264-9463	<b>Date</b>  3/18/2010

## Fiscal Estimate Narratives

DOJ 3/18/2010

LRB Number	<b>09-4393/1</b>	Introduction Number	<b>AB-0769</b>	Estimate Type	<b>Original</b>
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### Assumptions Used in Arriving at Fiscal Estimate

The Department of Justice does not anticipate a fiscal impact due to the enactment of 2009 Assembly Bill 769.

### Long-Range Fiscal Implications

## Fiscal Estimate - 2009 Session

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<b>Fiscal Effect</b>  <b>State:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No State Fiscal Effect  <input checked="" type="checkbox"/> Indeterminate                      <input type="checkbox"/> Increase Existing Appropriations                      <input type="checkbox"/> Decrease Existing Appropriations                      <input type="checkbox"/> Create New Appropriations                 </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                 </div> <div style="width: 35%;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget                    <input type="checkbox"/> Yes                      <input checked="" type="checkbox"/> No  <input type="checkbox"/> Decrease Costs                 </div> </div> <b>Local:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No Local Government Costs  <input checked="" type="checkbox"/> Indeterminate                      1. <input checked="" type="checkbox"/> Increase Costs                         <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory                      2. <input type="checkbox"/> Decrease Costs                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 30%;">                     3. <input type="checkbox"/> Increase Revenue                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      4. <input type="checkbox"/> Decrease Revenue                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 35%;"> <b>5.Types of Local Government Units Affected</b>  <input type="checkbox"/> Towns            <input type="checkbox"/> Village            <input type="checkbox"/> Cities  <input checked="" type="checkbox"/> Counties           <input type="checkbox"/> Others  <input type="checkbox"/> School Districts   <input type="checkbox"/> WTCS Districts                 </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div> <b>Fund Sources Affected</b>  <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEGS                         </div> <div> <b>Affected Ch. 20 Appropriations</b> </div> </div>		
<b>Agency/Prepared By</b>  SPD/ Megan Christiansen (608) 267-0311	<b>Authorized Signature</b>  Krista Ginger (608) 264-8572	<b>Date</b>  3/4/2010

**Fiscal Estimate Narratives**  
**SPD 3/4/2010**

LRB Number	<b>09-4393/1</b>	Introduction Number	<b>AB-0769</b>	Estimate Type	<b>Original</b>
<b>Description</b>					
Evidentiary recordings of persons under the age of 18 engaging in sexually explicit conduct and attempt of certain sex crimes against children and providing penalties					

**Assumptions Used in Arriving at Fiscal Estimate**

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

Although this bill would not create a new crime, it would increase the penalties for two current felonies: attempting to cause a minor to view or listen to sexually explicit conduct under certain circumstances and attempting to communicate with a person believed to be under sixteen years of age with the intent to have sexual contact with an individual under sixteen. The exposure to increased penalties would increase the complexity, and therefore the cost, of these felony cases for the SPD. However, we do not have data to project how many SPD cases would be affected by this change.

Because probation or prison could be ordered upon conviction for these felony crimes, the proposed longer sentences, including supervision terms, would indirectly lead to additional cases in which the Department of Corrections (DOC) would seek to revoke probation or extended supervision. The SPD provides representation in proceedings commenced by the Department of Corrections (DOC) to revoke supervision. Thus, the bill would indirectly increase the number of cases in which the SPD appoints attorneys in revocation proceedings. The average cost during fiscal year 2009 for SPD representation by a private bar attorney in a revocation proceeding was \$382.18.

This bill also would require the defense to inspect recorded evidence against a defendant in child pornography cases only in a location maintained by the court or a law enforcement agency. This restriction could result in increased travel time in some counties where this is not already the practice. The SPD does not have data to determine how many cases would be affected.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the counties would experience increased costs attributable to the higher classification of criminal charges resulting from this bill. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing, and associated with increased travel times for attorneys in some counties.

**Long-Range Fiscal Implications**